



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Don Jones, Special Counsel
Metropolitan Council Office

COUNCIL MEETING DATE: **October 20, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 8/12/15:

4% Reserve Fund	\$41,703,396*
Metro Self Insured Liability Claims	\$4,559,338
Judgments & Losses	\$3,337,618
Schools Self Insured Liability Claims	\$2,976,918
Self-Insured Property Loss Aggregate	\$5,821,569
Employee Blanket Bond Claims	\$658,276
Police Professional Liability Claims	\$2,686,517
Death Benefit	\$1,181,116

*Assumes unrealized estimated revenues in fiscal year 2016 of \$25,781,674.

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2015-18 (O’CONNELL) – This resolution approves an exemption for Cochon Butcher located at 1120 Fourth Avenue North, Suite 101, from the minimum distance requirements for obtaining a beer permit. The Metropolitan Code prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, the code provides a mechanism to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. A public hearing must be held by the council prior to voting on this resolution.

– RESOLUTIONS –

RESOLUTION NO. RS2015-19 (MENDES, GILMORE, & OTHERS) – This resolution authorizes the employment of Mr. Michael Jameson as Special Counsel and Director of the Council Office, replacing Mr. Cooper. According to the Charter, the Vice-Mayor has the authority to appoint special counsel, but full Council approval is required for hiring a new Director.

RESOLUTION NO. RS2015-20 (PRIDEMORE) – This resolution approves an eighth amendment to a grant from the state Emergency Management Agency to the Metropolitan Government for the reimbursement of expenses resulting from the May, 2010 flood. This grant is for the receipt of federal and state funds to reimburse Metro for flood repairs and the replacement of equipment and facilities. This amendment increases the amount of the grant by \$2,600,079.03 for a new total of \$66,422,408.92. The required amount of the local cash match is also increased by \$136,846.33 for a new total of \$3,495,916.02. The end date of the grant remains April 29, 2020.

RESOLUTION NO. RS2015-21 (PRIDEMORE) – This resolution approves a grant in the amount of \$74,800 from the Tennessee Administrative Office of the Courts to the State Trial Courts for interpreter services for indigent defendants with limited English proficiency. The interpreter services to be provided through this grant will only be available to those indigent defendants involved in a legal proceeding in which they have a constitutional or statutory right to appointed counsel. The term of the grant is from July 1, 2015 through June 30, 2016.

RESOLUTION NO. RS2015-22 (PRIDEMORE & PARDUE) – This resolution accepts a grant of \$2,500 with no local cash match requirement from ExxonMobile Refining and Supply to the Metropolitan Nashville Fire Department. The stated purpose of the grant is “to support personnel training and equipment procurement”. There are no conditions attached to the grant other than the requirement for the Fire Department to complete a form to the corporation, indicating the date, amount, and benefits received.

RESOLUTION NO. RS2015-23 (PRIDEMORE & PARDUE) – This resolution approves a grant in the amount of \$399,989.17 from the Tennessee Department of Transportation (TDOT) to the Metro Police Department for the continuation of an enhanced DUI enforcement initiative. The purpose of this grant program is to reduce traffic related crash fatalities by focusing on alcohol or drug impaired drivers on weekends and major holidays. This federal pass-through grant will pay the overtime costs for the DUI enhanced enforcement team working Thursday through Sunday nights and on the six holidays associated with heavy alcohol consumption: St. Patrick’s Day, Cinco de Mayo, Memorial Day, Independence Day, Labor Day, and New Year’s Eve. The term of the grant is from October 1, 2015 through September 30, 2016.

RESOLUTION NO. RS2015-24 (PRIDEMORE & PARDUE) – This resolution accepts a \$58,000.32 grant from the Tennessee Department of Transportation (TDOT) to pay the salary and benefits of one employee of the State Trial Courts. This employee currently serves as an alcohol abuse counselor for the Drug Court. The employee is currently paid from the “Fines and Forfeitures” account. If this grant is not approved, that account would continue to be used for this purpose.

RESOLUTION NO. RS2015-25 (PRIDEMORE & MURPHY) – This resolution approves the waiver of pension benefit overpayments made to Ms. Victoria Windoloski. As a result of staff error, Ms. Windoloski received a total of \$4,030.63 in pension benefits in excess of what she was entitled. The Metropolitan Code permits the benefit board to waive such overpayments provided that the beneficiary was without fault or knowledge of the error and would be deprived of income for living expenses if forced to repay the amount of overpayment. The employee benefit board has approved this waiver.

In the event pensioners are underpaid, the back payments are automatically paid without requiring council approval.

RESOLUTION NO. RS2015-26 (PRIDEMORE & MURPHY) – Resolution No. RS2014-1323 initially approved the acceptance of a \$22,125 grant from the State of Tennessee, Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC).

This new resolution adds Section E.12, addressing “Debarment and Suspension”. This new section obligates the NCAC to certify that its principals and subcontractors are not debarred, suspended, or otherwise excluded from covered transactions by any federal or state department or agency. It also requires that there be no relevant civil judgment against them within the preceding three (3) year period.

RESOLUTION NO. RS2015-27 (PRIDEMORE & GILMORE) – This resolution extends the term of a contract with United Neighborhood Health Services, Inc (UNHS) from June 30, 2015 to June 30, 2016. This contract is for UNHS to provide medical services to homeless clients of the Health Department. A contract with UNHS has been in place since 2005 to provide a portion of

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RESOLUTION NO. RS2015-27, continued

the medical services, including examinations, diagnosis, and treatment of medical conditions of homeless persons seen at the downtown clinic. UNHS is to provide primary medical services to at least 3,500 individuals, which is to include a 24 hour on-call system for emergencies. This contract also includes the provision of dental care for at least 500 patient visits and mental health services to at least 600 homeless clients. UNHS will be responsible for making transportation available to its homeless patients. UNHS was compensated in the amount of \$355,200 for Fiscal Year 2015. This will remain unchanged for Fiscal Year 2016. There are no changes being made to the terms and conditions of the contract other than the extension of the termination date.

RESOLUTION NO. RS2015-28 (PRIDEMORE & GILMORE) – This resolution accepts a grant of \$10,000 with no local cash match requirement from the Dorothy Cate Frist Foundation Advised Fund of the Community Foundation of Middle Tennessee to the Metropolitan Nashville Social Services Commission. The grant is to be used to benefit the homelessness program of the Commission. There are no conditions attached to the grant other than the request to address any notes of appreciation to Ms. Dorothy C. Frist.

RESOLUTION NO. RS2015-29 (GILMORE) – This resolution approves a contract between the Metropolitan Board of Health and TriStar Summit Medical Center to provide licensed medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) through a worksite POD (Point Of Dispensing) in the event of a public health emergency. The Health Department will be responsible for obtaining the mass prophylaxis from the state and delivering them to the worksite POD during a public health emergency. Summit Medical Center will be responsible for distributing the prophylaxis, and will not receive any form of compensation for providing these services. This contract is for a term of five years, but may be extended for two additional one-year terms.

The council has approved similar agreements with other area hospitals.

RESOLUTION NO. RS2015-30 (SYRACUSE & PRIDEMORE) – This resolution approves a grant in the amount of \$30,000 from the State Historical Commission to the Metro Historical Commission, working in conjunction with the Metro Parks Department, to hire a consultant to complete a master plan for Two Rivers Mansion, the 1802 House, and the associated grounds. Metro purchased this property in 1966 and the council approved a historic landmark district designation for the property in 1999. Metro spent \$1.1 million in capital funds in 2013 to repair and paint the exterior woodwork of the mansion.

This grant will be used to hire a consultant to address security concerns, evaluate the condition of the buildings, and develop a plan for the use of the site. This is to include cost estimates for implementation of the plan. There is a required local cash match of \$20,000 for this grant. This will be paid by the "Friends of Two Rivers Mansion", a 501(c)(3) organization co-created by Metro Parks and Metro Historical.

RESOLUTION NO. RS2015-31 (HENDERSON & PRIDEMORE) – This resolution approves a grant in the amount of \$100,000 from the Friends of Warner Park to the Metropolitan Parks department for the construction of a horse barn on the campus of the Percy Warner Park Equestrian Center. There will be a required match of \$100,000 to be provided through the deferred maintenance funds of the Parks Department’s capital budget.

This was approved by the Parks Board at their meeting on September 1, 2015. If for any reason the project does not proceed, the grant is to be returned to the donors.

RESOLUTION NO. RS2015-32 (O’CONNELL & PRIDEMORE) – This resolution authorizes the Director of Public Property to exercise an option to purchase five parcels of property located on Anthes Drive for use as part of the Parks and Recreation system. These five parcels totaling approximately 13.1 acres are to be purchased from the Trust for Public Land (TPL) for a purchase price of \$2,500,000. The most recent appraisal for this property placed the value at \$2,450,000.

Metro is prohibited from paying more than the fair market price for any property, which is determined based upon appraisals of the property. Metro, by policy, is permitted to pay more than the appraisal amount if the excess is less than 10%. In this instance, the excess is slightly more than 2%.

The Metro Board of Parks and Recreation has not yet had the opportunity to consider this purchase. TPL does not have any objection to delaying this purchase until Parks can formally approve the transaction. This resolution should be deferred for one meeting.

RESOLUTION NO. RS2015-33 (PRIDEMORE) – This resolution authorizes the department of law to settle the personal injury claim of Donna Seltzer, as next of kin for Roger Seltzer (deceased) against the Metropolitan Government for the amount of \$15,000. This settlement is the result of the death of Roger Seltzer on May 13, 2011. Mr. Seltzer was riding home on his motor scooter on Brick Church Lane when he hit a large tree limb in the roadway as he came over a hill. Mr. Seltzer died at the scene. His mother, Donna Seltzer, brought a wrongful death action against the Metropolitan Government, alleging the roadway was dangerous.

Three weeks prior to the accident, on April 21, 2015, the Metropolitan Government’s Public Works Department received a phone call about a possible broken tree branch or branches at 501 Brick Church Lane. An inspector visually examined the tree and branches. The inspector did not believe the tree at issue in this case presented an immediate danger to the roadway. He also did not see any outward signs of decay, damage, or rot. However, he did notice that a broken branch was touching AT&T’s telephone line and he notified AT&T.

In order for the plaintiff to prevail, she must show there was a dangerous or defective condition of the roadway and that Metro had notice of that condition. She must also demonstrate that Metro did not use reasonable care and the failure to use reasonable care caused the accident.

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RESOLUTION NO. RS2015-33, continued

The deceased in this case was not without fault. There is evidence he was traveling too fast for the weather conditions and did not even have a license to operate the scooter he was driving.

It is estimated that the Department of Law would spend an additional \$5,000 to \$10,000 to take this case to trial.

The Plaintiff is willing to settle her claim against Metro for \$15,000. Due to the probability of the much higher cost of a potential court award in this case in addition to the cost of continuing to take the case to trial, the Department of Law recommends settling this case for \$15,000 to be paid out of the Self-Insured Liability Fund.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2015-1 (ALLEN) – This ordinance abandons a portion of Acklen Avenue right-of-way between 21st Avenue South and Alley No. 815. This is a one-half foot wide strip that needs to be abandoned to facilitate the construction of the Hill Center Acklen development. All utility easements are also being abandoned. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2015-2 (ALLEN) – This ordinance authorizes Nashville Downtown Partnership to install and maintain an automated bike kiosk within the public right-of-way at 2415 Vanderbilt Place for the “B-cycle” bikeshare program. B-cycle member riders will be able to swipe their card at the kiosk to unlock the bike. The Downtown Partnership has agreed to indemnify Metro for any claims arising out of the operation of the bike kiosk, and is required to maintain liability insurance in the amount of \$2 million.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-3 (FREEMAN) – This ordinance abandons a portion of Alley No. 1860 from Austin Avenue southwestward to a dead end. This closure has been requested by Ron and Sabrina Sepehr. All utility easements are also being abandoned. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2015-4 (PRIDEMORE & PARDUE) – This ordinance approves an agreement between the Metro office of family safety and the Legal Aid Society of Middle Tennessee for the state STOP Violence Against Women grant program. The council accepted a \$225,000 grant from the state department of finance and administration in August 2015 for this

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ORDINANCE NO. BL2015-4, continued

program, which are to be sub-granted to the Legal Aid Society for the creation and supervision of a civil-legal advocate program, expansion of the Legal Aid Society's current volunteer program, streamlining the client referral system, and making client eligibility determinations in a timely manner so as to allow for attorney contact prior to an order of protection hearing. This agreement officially sub-grants a total \$218,750 to the Legal Aid Society, of which \$68,750 will be paid in the current fiscal year and \$75,000 per year for the next two fiscal years. The term of this agreement extends through July 1, 2018.

ORDINANCE NO. BL2015-5 (PULLEY) – This ordinance authorizes the acceptance of permanent and temporary easements for four properties located on Amanda Drive for a stormwater improvement project. There is no cost associated with acquisition of the easements identified in the ordinance. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-6 (PULLEY) – This ordinance authorizes the acceptance of permanent and temporary easements for 19 properties located on Riverwood Drive, Bobby Avenue, McGavock Pike, Cooper Lane, Avalon Drive, Moran Avenue, and Ravenwood Drive for the Cooper Lane stormwater improvement project. There is no cost associated with acquisition of the easements identified in the ordinance. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-7 (PULLEY) – This ordinance abandons 85 linear feet of a 2-inch water main and accepts 129 feet of 8-inch water main and a fire hydrant assembly for properties located at 4105 and 4107 Hillsboro Pike. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-8 (HASTINGS) – This ordinance abandons 212 linear feet of a water main and easement and accepts 232 feet of 10-inch water main with two fire hydrant assemblies for property located at 100 French Landing Drive. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-9 (GLOVER) – This ordinance abandons various sections of sewer main and easements, as well as the existing Farmingham Woods pumping station, and accepts replacement sewer mains. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-10 (SLEDGE) – This ordinance abandons various sewer mains and accepts replacement mains for property located at 2213 11th Avenue South. This ordinance has been requested by Metro water services for a sewer and storm drainage project. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-11 (PRIDEMORE) – This ordinance authorizes the construction of 161 linear feet of 8-inch sewer main, install two sewer manholes, and replace or relocate one fire hydrant for property located at 2016 Beech Avenue. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-12 (S. DAVIS) – This ordinance abandons 475 linear feet of 8-inch sewer main and 385 feet of 6-inch water main, and accepts 839 feet of 8-inch sewer line with five manhole units and 971 feet of 6-inch water main for property located at 1034 W. Eastland Avenue. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.